

from the Commission as an ALEC and AAV. MCIT and MCImetro are both "telecommunications carriers" and "local exchange carriers" under the terms of the Act.

3. The names and addresses of MCI's representatives in this proceeding are:

Richard D. Melson
Hopping Green Sams & Smith, P.A.
123 South Calhoun Street
P.O. Box 6526
Tallahassee, FL 32314

and

Martha McMillin
MCI Telecommunications Corporation
Suite 700
780 Johnson Ferry Road
Atlanta, GA 30342

4. GTE Florida Incorporated is a corporation having an office at One City Center, Tampa, Florida 33601. GTEFL provides local exchange and other services within its franchised areas in Florida. GTEFL is an "incumbent local exchange carrier" under the terms of the Act.

JURISDICTION

5. The Commission has jurisdiction over MCI's Petition pursuant to the provisions of the Act. On April 3, 1996, MCIT formally requested negotiations with GTE Corporation and all of its operating companies on behalf of itself and its affiliates, including MCImetro, pursuant to Section 252(a)(1) of the Act. A copy of that request is attached as Exhibit 1. As permitted by Section 252(b)(1) of the Act, MCI files this Petition for resolution of open issues between itself and GTEFL between the 135th and 160th days following such request. Under Section 252(b)(4)(C) of the Act, the Commission must

complete this arbitration within nine months of the date that MCI made its original negotiation request, that is, by January 3, 1997.

SIGNIFICANCE OF THIS PROCEEDING

6. This is an historic proceeding. In 1995, the Florida Legislature took steps to remove the statutory monopoly on local telephone service and the Commission began to conduct proceedings to implement that new law. On February 8, 1996, the President signed into law the Telecommunications Act of 1996, which authorized local competition on a nationwide basis. The federal law contains detailed provisions governing the relationship between incumbent local exchange companies and their new competitors. It gives the state commissions significant responsibilities for implementing the Act consistent with regulations established by the Federal Communications Commission (FCC). On August 8, 1996, the FCC released its decision discussing and adopting significant regulations to implement the local competition provisions of the Act. Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order (adopted August 1, 1996) (FCC Competition Order).

7. The goal of both the Florida and federal laws are the same -- to provide consumers with the new choices, lower prices, and advanced technologies that fair competition will bring to the local telecommunications market. At the same time, both laws recognize that the transition from monopoly to competition will not occur overnight, that the former monopolists will not willingly embrace the new competitive paradigm, and that continued regulatory oversight is necessary to ensure that competition is given a fair chance to develop.

If the answer to each of the questions is "yes," then the Commission will have charted a course to bring competition, and all of its benefits, to Florida consumers.

THE NEGOTIATIONS

12. By letter dated April 3, 1996, MCI formally requested negotiations with GTEFL pursuant to Section 252 of the Act.

13. The first negotiating meeting pursuant to Section 252 of the Act was held on May 14, 1996. Prior to that meeting, MCI furnished GTE a copy of Version 3.2 of a document entitled "MCI Requirements for Inter-carrier Agreements" which sets forth in detail MCI's requirements for interconnection and access, unbundling, resale, ancillary services and associated arrangements pursuant to the Act (Term Sheet). The Term Sheet, as subsequently revised on June 7, 1996 (Version 4.0), served as the focal point of the negotiations. An Annotated Term Sheet, in which MCI had indicated its understanding of GTE's response to each item requested in MCI's Term Sheet, is attached as Exhibit 2, and is hereby incorporated by reference as if fully set forth in the body of this Petition.

14. Additional meetings and conference calls between MCI and GTE were held in June, July and August.

15. The parties never reached agreement on pricing issues. GTE was unwilling to entertain MCI's proposal that prices for unbundled network elements and other items be set at forward-looking economic cost, or Total Service Long Run Incremental Cost (TSLRIC).² GTEFL insisted that items be priced in a manner intended to continue to recover all of its embedded costs.

² In its Competition Order, the FCC adopted a version of the TSLRIC methodology as the basis for pricing interconnection and unbundled elements. The FCC coined the term "total element long run incremental cost" (TELRIC) to describe its version of the TSLRIC methodology. (FCC Competition Order, ¶678)

16. During the negotiations GTEFL has made no proposals to MCI regarding items that GTEFL may wish to obtain from MCI.

17. Given the lack of meaningful negotiation on pricing issues, and the lack of any GTEFL requests of MCI, there has been little of the "give and take" that characterizes a typical commercial negotiation.

18. As a result of this process, there are several categories of issues, all of which are submitted for arbitration:

(a) There are a number of fundamental policy, pricing, technical, operational and administrative issues where the parties have been unable to reach any level of agreement.³ These include the pricing of unbundled elements, the availability of all services for resale, the pricing of resold services, and the pricing (and in some cases availability) of certain ancillary services. These issues are submitted for arbitration, and are not candidates for the "Mediation Plus" arbitration procedures described below.⁴

(b) There are other issues where the parties have not yet reached an agreement in principle, but where further supervised negotiations would be productive. These issues are submitted for arbitration, and MCI believes they are candidates for the Mediation Plus arbitration procedures described below.⁵

³ In large part, these are also issues on which GTEFL and AT&T have failed to reach agreement.

⁴ As noted below, the FCC Competition Order resolves some of these issues in whole or in part. Absent an agreement with GTEFL, however, these issues are submitted for arbitration to preserve MCI's rights in the event GTEFL takes a contrary view of its federal obligations, and to ensure that these obligations are translated into appropriate contractual language.

⁵ If MCI's request to apply the Mediation Plus arbitration procedures to some issues is denied, all issues will require arbitration using the procedures previously established by the Commission.

(c) There are other issues where MCI believes that the parties may have reached an agreement in principle, but where the parties have not yet agreed to specific contractual language. In some instances, the agreement in principle is in broad terms and there are numerous details to be resolved before contractual language can be developed. These issues are submitted for arbitration to ensure that they are pushed to final resolution during the course of this proceeding. MCI believes that some of them are also candidates for the Mediation Plus arbitration procedures described below.

(d) The Term Sheet Items summary document attached to this Petition as Exhibit 3, and incorporated herein by reference as though fully set forth in the body of this Petition, shows the categories into which various issues fall, and MCI's recommendation as to which of those issues are candidates for the Mediation Plus arbitration procedures.

MEDIATION PLUS

19. As indicated above, the unresolved issues include a number of major issues which will clearly need to be litigated and resolved by the Commission, unless GTEFL's position changes substantially as a result of the adoption of the FCC Competition Order. The unresolved issues also include numerous other technical, operational, and administrative issues.⁶ GTEFL and MCI may have reached agreement in principle on some of these other issues, but those agreements have not been fleshed-out in detail nor incorporated into specific contractual language. At this time, MCI must therefore treat them as unresolved within the meaning of the Act. MCI is optimistic that with the proper Commission-mandated and

⁶ These issues include things such as the provision of support for intercompany 64kbps clear channel signalling, the reporting to MCI of all ALIT/SLIT (Auto/Subscriber Line Test) failures that occur on MCI's customers' lines, and the details of arrangements for billing resold GTEFL services.

supervised mechanism in place, many of these items can still be addressed by negotiations, subject to ultimate approval by the Commission.

20. Nevertheless, because of the potentially inflexible arbitration provisions and timetables contained in the Act, MCI is requesting arbitration of all unresolved issues, including those identified for the Mediation Plus arbitration procedure described below, in order to preserve its right to obtain a final arbitrated Commission decision within the federal statutory time frame.

21. The Act does not dictate the specific procedures to be followed by state commissions in conducting arbitration proceedings, but instead leaves wide discretion to the states. The procedures that the Commission has established for the AT&T/GTEFL docket with which MCI is seeking consolidation are well-suited to the resolution of the major issues. The application of those procedures to the multitude of other technical, operational and administrative issues, however, could result in overburdening the Commission with detailed issues that may yet be capable of negotiated settlement by the parties.

22. MCI therefore proposes that the Commission establish a Mediation Plus arbitration procedure to be followed as part of the overall arbitration process.⁷ Under Mediation Plus, the Commission would:

(a) accept all issues for arbitration, but bifurcate the proceeding and refer certain issues to a separate portion of the docket to be addressed through a Mediation Plus arbitration procedure;

⁷ MCI's separate Motion to Establish Procedure for "Mediation Plus" was filed today with the Commission.

(b) direct the parties to continue to negotiate these detailed technical, operational and administrative issues with the assistance of a mediator, preferably a member of the Commission staff;

(c) establish milestones for written progress reports to the Commission and a firm deadline for the conclusion of those negotiations;

(d) require the parties to file with the Commission for approval any agreement that results from the negotiations; and

(e) arbitrate and decide, by the 9-month deadline (January 3) applicable to MCI/GTEFL, any detailed technical and operational issues which the parties do not resolve through Mediation Plus.

23. Under Mediation Plus, MCI proposes that the current hearing schedule for the AT&T/GTEFL docket with which MCI is seeking consolidation be used to address the major issues which will clearly require Commission resolution.⁸ For the technical, operational and administrative issues identified in Exhibit 3 as Mediation Plus issues, MCI requests that the Commission:

(a) establish an October 18, 1996 deadline for the conclusion of the Mediation Plus negotiations, together with a series of earlier progress reporting dates;

(b) establish an October 25, 1996 deadline for the parties to file with the Commission any agreement that results from the negotiations, together with supplemental testimony addressing any issues that remain unresolved; and

⁸ Since the bulk of these issues are common to the MCI and AT&T arbitrations, they can be disposed on the current schedule, which calls for a decision by the 9-month deadline applicable to AT&T.

(c) schedule an additional hearing date or dates in early November to consider these issues on a schedule which is consistent with a final decision by the January 3, 1997 federal deadline.

Because the issues identified for the Mediation Plus arbitration procedure are generally more detailed than the issues that AT&T has submitted for arbitration, the use of the Mediation Plus procedure to attempt to resolve these MCI-specific issues should have no effect on the requested consolidation of the MCI and AT&T proceedings.

24. MCI believes that this bifurcated, parallel path approach -- a typical Commission hearing on the major issues together with Commission-supervised mediation followed, if necessary, by a typical Commission hearing on the other unresolved issues -- is the most efficient way to resolve the numerous issues submitted for arbitration.

SUBMISSION OF RELEVANT DOCUMENTATION

25. MCI is filing with its Petition all relevant documentation concerning the unresolved issues, the position of each of the parties with respect to those issues, and the terms and conditions which MCI believes that GTEFL has agreed to in principle. Because GTEFL has not responded in writing to any of MCI's proposals or positions, this documentation is in the form of an "Annotated Term Sheet" on which MCI has indicated its understanding of GTEFL's response to each item requested in MCI's Term Sheet (Version 4.0). A copy of the Annotated Term Sheet is attached as Exhibit 2, and has previously been incorporated by reference in this Petition.

26. To provide an overview of the various Term Sheet items, MCI has also prepared a Term Sheet Items summary document (Exhibit 3) which identifies in tabular form those issues where MCI believes the parties may have reached agreement in principle, versus

those on which no agreement has been reached. As part of its proposal for Mediation Plus, MCI has categorized the issues to be arbitrated into two groups: those which it believes will require arbitration using the Commission's typical arbitration procedures, and those which it believes are candidates for arbitration using the Mediation Plus arbitration procedures.

EFFECT OF THE FCC COMPETITION ORDER

27. The FCC Competition Order will have a significant impact on the conduct of these proceedings. The rules adopted in that order (FCC Competition Rules) are binding on the parties and the state commissions in the conduct of Section 252 arbitration proceedings.

28. In some cases, the FCC Competition Rules place specific requirements on GTEFL, and other incumbent LECs.⁹ MCI assumes that GTEFL will acknowledge the effect of these rules, and will agree to comply with these requirements. Until GTEFL has done so, MCI has identified these items as issues to be arbitrated. Under the FCC Competition Rules, however, there is only one permissible outcome to the arbitration of those issues.

29. In other cases, the FCC Competition Rules establish standards or methodologies that state commissions must apply in resolving issues submitted for arbitration.¹⁰ These standards typically establish the framework within which Commission

⁹ For example, the rules (47 C.F.R. §51.319) contain a minimum list of unbundled network elements which must be offered by every incumbent LEC. (See FCC Competition Order, ¶366 et seq.)

¹⁰ For example, the FCC's minimum list of unbundled network elements is not exhaustive. Parties may seek additional unbundled elements, and the state commissions can address those requests through arbitrations or rulemakings. (See FCC Competition Order, ¶366) The FCC has established standards that the state commissions must apply in evaluating such requests. (47 C.F.R. §51.317; see FCC Competition Order, ¶277 et seq.)

fact-finding must occur and frequently allocate the burden of proof to the incumbent LEC.¹¹

30. In still other cases, the FCC Competition Rules establish default pricing proxies which a state commission may apply in arbitration proceedings if it is unable to conduct or review cost studies that comply with the FCC's prescribed methodology by the arbitration deadline.¹²

31. MCI has attempted in this Petition to identify issues that are resolved or otherwise impacted, in whole or in part, by the FCC Competition Rules. Because these rules and the accompanying 687-page order have been publicly available for just over two weeks as of the date this Petition is filed, MCI reserves the right to make necessary amendments to this Petition based on further analysis of the rules.

MAJOR CATEGORIES OF UNRESOLVED ISSUES

32. While there are numerous issues that remain unresolved, those issues can generally be categorized into thirteen major areas. The following identifies each of those major areas and MCI's proposal for resolution. Additional details, and specific additional requests, are identified in subsequent sections of this Petition, including the Annotated Term Sheet (Exhibit 2) which has been incorporated by reference into the body of this Petition. GTEFL's refusal to accommodate MCI's requests in each of these areas creates unwarranted barriers to local exchange competition by denying MCI the tools necessary to enter the local

¹¹ For example, an incumbent LEC must provide interconnection for transmission and routing of telephone exchange traffic at any technically feasible point within its network, and if the LEC denies a request for interconnection at a particular point it bears the burden of proving technical infeasibility. (47 C.F.R. §§51.305(a),(f))

¹² For example, the FCC Competition Rules establish a default ceiling for unbundled loop prices and a default range for the interim wholesale rates for resold LEC services. (47 C.F.R. §§ 51.513, 51.611)

market and compete on a fair basis. In many cases, GTEFL's position is flatly contrary to the Act and/or the FCC Competition Rules.

a. What unbundled elements must GTEFL make available to MCI?

GTEFL should be ordered to make available each of the unbundled loop elements, local transport elements, switching elements, and other elements requested by MCI. The unbundling of many of the requested elements has been required by the FCC Competition Rules. (47 C.F.R. §51.319) The unbundling of the remaining requested elements is technically feasible and is not proprietary. GTEFL's failure to provide access to those additional requested network elements would decrease the quality of the telecommunications services MCI seeks to offer and/or would increase the financial or administrative cost of offering such services. MCI is therefore entitled pursuant to the FCC Competition Rules to obtain these additional elements on an unbundled basis. (47 C.F.R. §51.317)

b. Can unbundled elements be used by MCI in any manner that it chooses in order to provide service to its customers? Yes. The FCC Competition Rules require GTEFL to allow MCI to use unbundled network elements in any combination. (47 C.F.R. §51.315) This rule permits limited exceptions only where GTEFL proves that it is not technically feasible to combine elements or that the combination of elements would impair other carriers' ability to obtain access to unbundled elements. (47 C.F.R. §51.315)

c. How should those unbundled elements be priced? GTEFL should be ordered to price all unbundled elements in accordance with the forward-looking cost methodology prescribed in the FCC Competition Rules. (47 C.F.R. §51.501, et seq.) This TELRIC costing methodology is consistent with the TSLRIC-based pricing that MCI has requested of GTEFL.

d. **What services must GTEFL make available to MCI for resale?** The FCC Competition Rules require GTEFL to offer all retail telecommunications services for resale. (47 C.F.R. §51.605) The services which GTEFL has thus far refused to offer for resale include promotions, contract service arrangements, voice mail, inside wire maintenance, calling cards, and volume and term discounts. Each of these is a telecommunications service offered to subscribers on a retail basis. Thus there is no basis under the FCC Competition Rules for GTEFL to refuse to offer any of these services for resale.¹³ (FCC Competition Order, ¶871-2) GTEFL is permitted, however, to base the wholesale price for resold short-term promotions on the ordinary retail rate rather than the promotional rate. (47 C.F.R. §51.613(a)(2)) GTEFL should be ordered to impose no use, user or other restrictions that restrict or limit the resale of any of its services.¹⁴

e. **What is the appropriate wholesale price for services provided for resale?** The FCC Competition Rules require GTEFL's wholesale price for resold services to reflect all costs that reasonably can be avoided by GTEFL when the service is provided on a wholesale basis. (47 C.F.R. §51.607, 51.609) Pending the establishment of wholesale rates using the avoided cost methodology specified in 47 C.F.R. §51.609, the FCC Competition Rules permit a state commission to establish interim wholesale rates that are between 17% and 25% below the incumbent LEC's existing retail rates. (47 C.F.R. §51.611) The

¹³ The FCC Competition Order specifically addresses volume based discounts, Lifeline services, and grandfathered services, and concludes that these are retail services that must be made available for resale. (FCC Competition Order, ¶ 951, 962, 968)

¹⁴ The Commission is permitted, but not required, to allow GTEFL to restrict the resale of flat-rate basic local residential service to residential customers, grandfathered services to grandfathered customers, and Linkup services to qualifying low income customers. (47 C.F.R. §51.613(a)(1)) MCI does not object to these specific restrictions.

wholesale price adjustment in this case should be set at the top end of the default range established by the FCC Competition Rules, or at such other level as is supported by the record in this proceeding.

f. To what extent must GTEFL provide "branding" of services provided to end users on behalf of MCI? GTEFL should be ordered to brand, as MCI, any operator services, directory assistance services, and any other like services provided to end users who use GTEFL local exchange services that are being resold by MCI. Such branding is required by the FCC Competition Rules unless GTEFL proves that a particular restriction is reasonable and nondiscriminatory. (47 C.F.R. §51.613(c)). In addition, GTEFL should be required to provide branding in all situations where GTEFL employees or agents interact with MCI customers with respect to the provision of resold GTEFL services or unbundled elements provided to end users on behalf of MCI. (See FCC Competition Order, ¶971)

g. On what time frame must GTEFL provide real-time electronic interfaces for pre-ordering, order processing, provisioning and installation, maintenance and trouble resolution, billing (including customer usage data transfer), and local account maintenance with respect to resold services and unbundled network elements? GTEFL must provide real-time electronic interfaces to MCI as quickly as possible, but in any event by January 1, 1997, as required by the FCC Competition Order. (¶525) Such interfaces are necessary to permit MCI to offer customer service at least equal in quality to what GTEFL provides to its customers. The FCC Rule deals with this issue by defining "operations support system functions" as an unbundled network element which must be made available "as expeditiously as possible, but, in any event, no later than January 1, 1997."

(47 C.F.R. §51.319(e)) The FCC Competition Order makes it clear that nondiscriminatory access to this element requires access to any electronic interfaces that are used by GTEFL in performing these support functions for its own customers. (FCC Competition Order, ¶523-5) MCI expects that GTEFL will comply with the time frame mandated by the FCC Competition Rules. If GTEFL refuses to do so, this issue must be resolved by the Commission consistent with those rules.

h. What quality of service standards should be established to ensure that GTEFL does not impair the quality of service that MCI is able to provide to its customers when using unbundled facilities or resold services of GTEFL, and what mechanism is appropriate to enforce those standards? The FCC Competition Rules require that, to the extent technically feasible, the quality of unbundled network elements provided to MCI must be at least equal in quality to that which GTEFL provides to itself. (47 C.F.R. §51.311(b)) The terms and conditions on which such elements are provided, including installation intervals, must also be no less favorable than the terms and conditions under which GTEFL provides such elements to itself. (47 C.F.R. §51.313(b)) Similar quality of service obligations are imposed on GTEFL with respect to the provision of resold services. (47 C.F.R. §51.603(b)) GTEFL should be ordered to adhere to performance metrics, installation intervals, repair intervals and other standards that are equal to the higher of the standards that GTEFL is required to provide, or actually provides, to its own customers or to customers of any other carrier.

i. At what level must GTEFL price interexchange carrier access in order to comply with the Act? The FCC Competition Rules prohibit either interstate or intrastate access charges from being imposed on a carrier who offers local exchange service

or exchange access service through the use of unbundled network elements. (47 C.F.R. 51.515(a)) During a specified transitional period, ending no later than June 30, 1997, GTEFL can collect from carriers who purchase GTEFL's unbundled local switching, the interstate CCLC and 75% of the interstate TIC. (47 C.F.R. 51.515(b)) The FCC Competition Order permits states to also impose a transitional access charge on top of the unbundled switching charge, to the extent that the state finds that such a charge is necessary to ensure that universal service goals are not jeopardized prior to the issuance of the FCC's implementation of Sections 254 and 214(e) of the Telecommunications Act of 1996, which require establishment of a competitively-neutral universal service mechanism. However, the state transitional charge, like the interstate transitional charge, must terminate no later than June 30, 1997. MCI believes that universal service in Florida will not be jeopardized by the availability of unbundled network elements at economic cost in the short interim between resolution of this arbitration and implementation of the FCC's universal service plan. Therefore, MCI opposes any requirement that requires new entrants to pay the state equivalent of the interstate CCLC or TIC for a transitional period. MCI further believes that the burden of proof that such charges are required should be on GTEFL.

Additionally, in order to comply with the Act, access charges for both switched and special access must be reduced to TSLRIC as quickly as possible.

j. What is the appropriate cost recovery mechanism for remote call forwarding (RCF) provided to MCI in connection with interim local number portability? GTEFL must be ordered to provide RCF on a competitively neutral basis as required by the

FCC's recent order on interim local number portability.¹⁵ MCI proposes a "bill and keep" basis, in which each carrier is responsible for recovering from its customers the costs that it incurs in providing RCF.

k. What are the appropriate technical arrangements for the interconnection of MCI's local network with that of GTEFL's, including appropriate provisions for colocation? GTEFL must be ordered to allow interconnection at any technically feasible point and must not be allowed to require more than one point of interconnection (POI) per local calling area. GTEFL must allow GTEFL provided services or unbundled elements to be connected at an MCI colocation space to any other facility provided by MCI, GTEFL, or any other party. GTEFL must give MCI the option to convert existing virtual colocations to physical colocations and GTEFL must bear the cost of such conversions.

l. What is the appropriate compensation arrangement for the transportation and termination of local traffic interchanged between GTEFL and MCI? In light of the FCC's Competition Order, which apparently allows "bill and keep" arrangements to be applied to the "termination" of local traffic, but not to the "transport" of local traffic, the Commission should set symmetrical charges for transport and termination of local traffic equal to GTEFL's TELRIC of providing such transport and termination.

m. What other technical, operational, and administrative provisions are required? In each of the disputed areas identified in the Annotated Term Sheet, GTEFL

¹⁵ Telephone Number Portability, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking (adopted July 2, 1996) (FCC Number Portability Order).

should be ordered to provide interconnection and access, unbundling, resale, ancillary services and associated arrangements in accordance with the requirements identified by MCI.

ISSUES TO BE ARBITRATED

33. In this section, MCI describes in more detail each of the major categories of unresolved issues from its negotiations with GTEFL, MCI's position on each issue, and MCI's understanding of GTEFL's contrary position. The Annotated Term Sheet attached as Exhibit 2, which has previously been incorporated into this Petition by reference, contains a more detailed list of the unresolved issues and the parties' respective positions.

A. UNBUNDLED ELEMENTS REQUIRED

34. In order to provide services to Florida consumers as quickly and efficiently as possible, MCI intends to buy from GTEFL the "unbundled network elements" identified in paragraph 36 and to use those elements (singly or in combination) along with resold services and with MCI's own facilities, to provide retail services to MCI's customers.

35. Under Section 251(c)(3) of the Act, GTEFL has a duty to provide MCI:

nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory. . . [GTEFL] shall provide such unbundled network elements in a manner that allows [MCI] to combine such elements in order to provide. . . telecommunications service.

36. "Network element" is defined in Section 3(29) of the Act as:

a facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

37. The FCC Competition Rules require GTEFL, at a minimum, to provide the following seven unbundled network elements: network interface devices, local loops, local and tandem switching capability (including all software features provided by such switches), interoffice transmission facilities, signaling networks and call-related databases, operator services and directory assistance, and, by 1/1/97, operations support systems functions. (47 C.F.R. §51.319)

38. The FCC Competition Rules also establish standards by which state commissions must consider additional unbundling requests, including requests for subloop unbundling. (47 C.F.R. §51.317; see FCC Competition Order, ¶259) Under those rules, the Commission must first make a determination of technical feasibility, using the FCC's definition of that term. (47 C.F.R. §51.5, 51.317(b)) If unbundling is technically feasible, the request for unbundling can be declined only in narrow circumstances where (i) the same telecommunications service can be provided with other unbundled network elements without a decrease in quality, or increase in the financial or administrative cost, of the service, or (ii) the network element is proprietary and the same service could be offered using nonproprietary network elements. (47 C.F.R. §51.317(b))

39. MCI has requested that GTEFL initially provide it with the ability to purchase any of the following unbundled elements.¹⁶ These elements generally fall into six categories:

(a) UNBUNDLED LOCAL LOOPS -- network interface devices, local loops, and one subloop element: loop distribution;

¹⁶ This list of network elements is not intended to be exhaustive. Additional network elements may be required as competition develops and/or technology advances.

(b) **UNBUNDLED LOCAL TRANSPORT** -- dedicated interoffice trunks, common interoffice trunks, multiplexing/digital cross connect, and dark fiber;

(c) **UNBUNDLED LOCAL SWITCHING** -- local and tandem switching capability (including all software features provided by such switches), and access to signaling networks and call-related databases;¹⁷

(d) **UNBUNDLED TANDEM/TRANSIT SWITCHING** -- the establishment of a temporary path between two switching offices through a third (tandem) switch;

(e) **UNBUNDLED ANCILLARY SERVICES** -- operator service, directory assistance service, and 911 service;

(f) **UNBUNDLED INTELLIGENT NETWORK AND ADVANCED INTELLIGENT NETWORK CAPABILITIES**; and

(g) **UNBUNDLED OPERATIONS SUPPORT SYSTEMS** -- the back office and business processes required for order processing, provisioning and installation, trouble resolution, maintenance, customer care, monitoring service quality, recording, and billing.¹⁸

MCI believes that it is technically feasible for GTEFL to offer each of the additional network elements requested, that such network elements are nonproprietary, and that failure to offer such elements would decrease the quality and/or increase the cost of telecommunications service to be provided by MCI. Therefore the Commission should order

¹⁷ These are the same as items identified in the Annotated Term Sheet (Exhibit 2) as line ports, trunk ports, switching capacity, and signalling and databases.

¹⁸ These unbundled elements are discussed in Section G (§52) below relating to real-time electronic interfaces.

GTEFL to unbundle each of the additional network elements as required by the FCC Competition Rules.

GTEFL has agreed to provide some, but not all, of the requested network elements.¹⁹ Unless GTEFL has changed its position in light of the FCC Competition Rules, GTEFL has not agreed to provide network interface devices, loop distribution, dark fiber, fully unbundled switching capacity, access to call-related databases or unmediated AIN functionality. Each of these disputed items will be addressed in turn.

40. Network Interface Device. The network interface device (NID) is the point of demarcation between the end user's inside wiring and an unbundled loop. GTEFL's position is that unbundling the NID is not technically feasible. The FCC Competition Rules require incumbent LECs to unbundle the NID to the extent of permitting NID-to-NID connections. (47 C.F.R. §51.319(b)) The FCC left to the state commissions the responsibility to determine whether direct connection to the NID (i.e. without the installation by the interconnecting carrier of a second NID) is technically feasible. (FCC Competition Order, ¶396) MCI believes that such direct connection is technically feasible, and accordingly asks the Commission to arbitrate this issue.

41. Loop Distribution. Loop distribution is the subloop element that connects a customer's premises to either a feeder distribution interface or a loop concentrator/multiplexer. MCI requires unbundling of the loop distribution element where,

¹⁹ MCI believes that GTEFL has agreed to provide unbundled access to: dedicated interoffice trunks, common interoffice trunks, multiplexing/digital cross connect, line ports, trunk ports, associated signalling, tandem switching, operator services, DA services, 911 services, and data switching. (See Section G for discussion of unbundled operations support systems and the related electronic interfaces.) Absent a written agreement, however, the need for each of these elements is submitted for arbitration.

for example, MCI has deployed a local fiber ring and its own switch, but does not own the facilities to span the "last mile" to the customer's premises.

GTEFL has refused to provide any subloop unbundling, including unbundled local distribution.

42. Dim or Dark Fiber. Interoffice trunks provide the ability to connect one location (such as an end office or tandem switch) with another location (such as another end office or tandem switch, or an interexchange carrier's point of presence). This capability allows end users to reach each other even when they are not served by the same end office, or by the same carrier.

MCI requires the ability to obtain interoffice transport in whatever manner is most efficient, given the number and location of its customers and the amount of traffic interchanged with GTEFL. This includes the use of both common and dedicated transport facilities, and the use of both dark and dim fiber.²⁰

GTEFL has agreed to provide common trunking to MCI. In addition, GTEFL has agreed to provide dedicated interoffice trunks to MCI, but only when they are bundled with the electronics necessary to transmit information over the physical path. GTEFL's position is that "dim fiber" and "dark fiber" are not network elements subject to the unbundling requirements of the Act.

MCI disagrees. Such facilities are subject to the Act's unbundling requirements, and it is technically feasible to provide them on an unbundled basis. If GTEFL refuses to provide such facilities on an unbundled basis, MCI would be required to

²⁰ Dark fiber refers to fiber without repeaters and without electronics on either end. Dim fiber refers to fiber with repeaters, but without electronics on either end.

compensate GTEFL for the use of electronics in situations where it can provide all or a portion of such electronics more efficiently itself. MCI has been an industry leader in the deployment of advanced fiber technology. Without the ability to obtain dark fiber, MCI would be limited by the type of electronics used by GTEFL, and would not be able to take advantage of new or more cost-effective fiber technologies.

43. Switching Capabilities. Local switching is the network element which consists of all of the functionality residing in a central office switch. It provides a dialtone for each line, provides custom features such as call waiting and call forwarding, creates the desired transmission path for the proper routing of the call (i.e. connects lines to trunks in accordance with routing instructions contained in the switch), creates customer billing data, and provides data switching functionality.

Access on an unbundled basis to the functions resident in a switch is necessary to create new and innovative services for customers. MCI has begun the deployment of its own local switches in a number of key markets. Such switching capacity represents a major capital investment, and MCI is not capable of deploying such switches in all markets simultaneously.²¹ Unless and until MCI installs its own switch in a given market, it must have access to the unbundled functionality resident in the GTEFL switch in order to provide the widest possible array of services to its customers.

In particular, MCI needs the capability to have GTEFL configure the switch to route specified types of calls originated over MCI customer loops (either unbundled loops

²¹ MCImetro has installed thirteen Class 5 switches in major cities around the country, and by the end of the year will be operating local switches in 24 markets in 20 states, including two in Florida. By the beginning of 1997, MCImetro will have invested nearly a billion dollars in local network construction, and if the right rules are in place, will spend almost that much again in 1997 alone.

obtained from GTEFL, or MCI's own loops connected to a GTEFL switch) to particular trunk groups designated by MCI. For example, MCI must have the option to specify that its customers' 411 calls be routed either to GTEFL DA trunks or to trunks that will transport the call to MCI's DA platform, and the option for 0+ calls to be routed either to GTEFL's operator service trunks or to trunks connected to MCI's operator service platform. Without such unbundling, MCI would be precluded from combining its own operator systems and transport facilities (owned or leased) with GTEFL's switching functionality, even where that is the most efficient way for MCI to provide service to its customers.

GTEFL claims that unbundling local switching is not technically feasible unless it includes GTEFL's operator services, directory assistance, repair service, and inter-office transport (i.e. its entire unbundled port offering).

MCI disagrees. Such unbundling is technically feasible, and is mandated by the FCC Competition Order. (§418 (routing) and §412 (vertical features)) GTEFL's position is inconsistent with the FCC Competition Rules, which establish local switching capability, operator services and directory assistance, and interoffice transport facilities as three distinct unbundled elements. (47 C.F.R. §51.319(c),(d),(g))

44. Access to Call-Related Databases. MCI requires access to unbundled call-related databases. GTEFL has refused to provide such access, on the grounds that it is not required by the Act. The FCC Competition Rules, however, make it clear that unbundled access to such databases is one of the minimum unbundling requirements of the Act. MCI assumes that GTEFL will reconsider its position in light of the FCC Competition Order; if not, the Commission must order such unbundling in a manner consistent with that order.

45. Unmediated Access to AIN Capabilities. MCI also requires access to GTEFL's Advanced Intelligent Network (AIN) capabilities equivalent to the access that GTEFL provides itself. This equality of access is needed so that MCI can achieve parity in the creation and offering of advanced services.

GTEFL refuses to unbundle access to its Advanced Intelligent Network (AIN) in such a way that MCI can achieve parity in the creation and offering of AIN services.²² By way of example, GTEFL refuses to provide unmediated access to all AIN triggers or to GTEFL's service creation and management platform. Unmediated access to such network capabilities is necessary to enable MCI to create and offer a variety of innovative, competitive advanced features to its customers independently of GTEFL, and to enable MCI to customize its customer offerings without having to duplicate GTEFL's network.

The FCC Competition Rules require GTEFL to provide access to these service management systems and service creation environments. (47 C.F.R. §51.319(e)(3)(B),(C)) The FCC left to the state commissions, however, the determination of whether mechanisms to mediate access to those systems, or to call-related databases, are necessary. (47 C.F.R. §51.319(e)(2)(v),(e)(3)(D)) This is an unresolved issue between MCI and GTEFL which must be arbitrated by the Commission.

B. USE OF UNBUNDLED ELEMENTS IN COMBINATION

46. MCI requires the ability to use unbundled network singly, or in any combination, in order to provide service to its customers. MCI also requires the flexibility to combine both local and intraLATA traffic over a single trunk group where such

²² For further detail on unresolved issues regarding the AIN platform, see Part VIII, Section 6 of the Annotated Term Sheet.

combination enables MCI to increase the efficiency with which such trunk groups are utilized.

The FCC Competition Rules prohibit GTEFL from placing restrictions on MCI's use of unbundled network elements. With extremely limited exceptions, those rules allow MCI to combine (or cause GTEFL to combine) unbundled elements obtained from GTEFL with each other, or with elements provided by MCI. (47 C.F.R. §51.315)

It appears that GTEFL has agreed in principle to allow MCI to combine unbundled elements in any technically feasible manner. The parties have not, however, agreed on specific contractual language.

C. UNBUNDLED ELEMENTS MUST BE PRICED AT TSLRIC

47. Under Sections 251(c)(3) and 252(d)(1) of the Act, the rate for unbundled network elements must be "just, reasonable and nondiscriminatory." Such rates must "be based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing. . .the network element" and "may include a reasonable profit." Thus the Act requires that prices for unbundled network elements reflect their economic costs.

TSLRIC is a way to measure forward-looking economic cost. TSLRIC includes the incremental costs of providing an entire service using the most efficient available technology. Pricing at TSLRIC enables the firm providing a service to recover all of the costs of the service, including a reasonable profit in the form of a competitive rate of return on its investment. Thus, TSLRIC is the proper standard under the Act for pricing unbundled network elements, since it incorporates both direct economic costs and a reasonable profit.